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09/516,252	03/01/2000	Patrick G Sobalvarro	3654-2	3759

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ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE, NC 28280-4000

EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

CA

# Office Action Summary

Application No.

09/516,252

Applicant(s)

SOBALVARRO ET AL

Examiner

Yogesh C. Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 and 39-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 & 37-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. The Declaration filed on 4/12/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Travis Publication reference.

2. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Travis Publication reference to either a constructive reduction to practice or an actual reduction to practice. The scope of the declaration or affidavit is not commensurate with the scope of the claim(s), that is defining an affinity space coordinate for each of a plurality of items available for sale, created package template including at least one mandatory element schema having an associated affinity space description, dynamically generating for sale by comparing, with a computer, the affinity space coordinate for each of the plurality of items with the affinity space description associated with the package templates and if the comparison step reveals a match presenting the dynamically generated package for sale, said package being defined at least in part by the package template and including at least one item with a matching affinity space coordinate. The applicant, on page 2, paragraph of the Declaration, has indicated that the package segment corresponds to affinity-space coordinate as exhibited on pages 20, 23, 25 and 31 of Exhibit A and pages 17 & 18 of Exhibit B but these cited pages of the exhibits A and B do not teach the recited limitations claimed and as cited above for ready reference.

3. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Travis reference. While conception is the mental part of

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the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). In this case, the scope of the declaration or affidavit is not commensurate with the scope of the claim(s), that is defining an affinity space coordinate for each of a plurality of items available for sale, created package template including at least one mandatory element schema having an associated affinity space description, dynamically generating for sale by comparing, with a computer, the affinity space coordinate for each of the plurality of items with the affinity space description associated with the package templates and if the comparison step reveals a match presenting the dynamically generated package for sale, said package being defined at least in part by the package template and including at least one item with a matching affinity space coordinate. The applicant, on page 2, paragraph of the Declaration, has indicated that the package segment corresponds to affinity-space coordinate as exhibited on pages 20, 23, 25 and 31 of Exhibit A and pages 17 & 18 of Exhibit B but these cited pages of the exhibits A and B do not teach the recited limitations claimed and as cited above for ready reference.

In view of the foregoing, the earlier rejection is maintained and this action is a Final office action.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.1. Claims 1-3, 6-7, 9-10 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travis et al. (US 2002/0010668 A1), hereinafter, referred to as, Travis and in view of Jones et al. (US 2002/0156661), hereinafter, referred to as Jones.

About claims 1, 2, 7, 9, 10, and 75, Travis teaches a method of offering Items for sale in a Group comprising creating a package template including at least one mandatory element schema having an associated affinity space description, storing a description of each item, presenting for sale a package template, transmitting messages confirming consumer's order for the travel package over a digital communications network (see at least, page 1, paragraph 0002, paragraph 011, "*.. The present invention provides an online system and method for marketing group of products.....shop for elements of an outdoor vacation experience* ", and page 2, paragraph 0018, "*....Development of a targeted web offering.....The most basic components of the experience may be readily identifiable [e.g. a tour package and an airline ticket for a vacation experience.....but other components.....Cluster analysis may also be used to refine the selection of components.....place orders for experiences* ", FIGS 1 and 2. Note: In Travis, Tour packages correspond to creating package templates, airline ticket relates to the mandatory element schema and cluster analysis refers to affinity space description in the application. Cluster analysis helps to detect and identify items in proximity). Travis further teaches dynamically generating a package for sale consisting of an html page containing a description of the package and transmitting the html page over a decentralized computer network to at least one

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consumer (see at least page 2, paragraphs 0015-0017, FIGS. 1 and 2). Note: The dynamic generating a package is done by the system without any intervention from a consumer.

Travis teaches using cluster analysis to refine the selection of components of the tour package (page 2, paragraph 0018) which will involve considering the affinity of the attributes of the components in their selection. Travis does not disclose defining an affinity space coordinate for each of the plural items available for sale and comparing them with the affinity space description associated with the package template to check if the package template includes at least one item with a matching affinity space description. However, Jones, in the same filed of endeavor i.e. selling travel packages on Internet from web sites, discloses defining the affinity space coordinates of the plural items for sale and comparing them with the affinity space description associated with the package template to check if the package template includes at least one item with a matching affinity space description (see at least page 2, paragraph 0034, *"..Travel database 140 represents a plurality of databases....flight information, hotel information....activity information...."*, paragraph 0036, *"....restaurant subsystem [ARS] 122 that identifies restaurants and activities .."*, paragraph 0037, *"... a travel database 140 that relates to travel flight times and fares for each of the different airlines ...."*, page 3, paragraph 0041, *"... Then ATS 116 identifies the destination airport closest to the destination...."*, paragraph 0047, and paragraphs 0053- 0055,). In view of Jones, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Travis to define an affinity space coordinate for each of the plural items available for sale and comparing them with the affinity space description associated with the package template to check if the package template includes at least one item with a matching affinity space description. Doing so would enable the consumer to select items as per his requirement, as suggested in Jones, " page 3, paragraph 0047, *".....The user may accept one of the recommendations or reject all the*

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*recommendations.....CR126 re-executes searches using relaxed constraints and is used here to look for a larger range of hotels [step 440]....", and paragraph 0053, ".....The user makes various selections on the screen and the activity and restaurant subsystem performs various processing in response to these selections ", ).*

Regarding claims 3-6, Travis/Jones further discloses selecting a package template from the at least one package template based at least in part on a consumer request (see at least Travis, paragraph 0016, "*If the user clicks to continue the shopping experience, he is presented with a set of products that will make up the experience, which might include the adventure travel package itself (in the example shown, from the adventure travel company Off The Beaten Path), air tickets to the point of departure, and appropriate clothing and books to prepare him for the trip. Each of these items may be customizable via a planning "wizard", but by default, the user is presented with a package of products that appear to be appropriate for his archetype. These products are placed in a combined virtual shopping cart, and may be purchased in a single transaction.*" . Note: Presenting the travel package [corresponds to the at least one package template and placing in the shopping cart would obviously mean selecting this package template ) and eliciting at least one constraint from a consumer which could be timing (see at least Jones, page 2, paragraph 0039, page 4, paragraph 0053).

4.2.. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travis/Jones and further in view of Lastminute.com (web site materials, received with IDS, paper number 4, consisting 32 web pages, extracted from Internet on 02/17/2000).

About claims 4 and 5, Travis/Jones does not disclose that elicited constraint includes customer's mood or number of people traveling. However, in the same field of endeavor, Lastminute.com teaches both the constraints including the customer's mood and the number of

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people traveling (at least see page 4 under the heading, " *What are we trying to do ?.....wants to encourage spontaneous, romantic and sometimes adventurous behavior...*" and page 26, under Restaurants,... Table booking....No. of people....."). In view of Lastminute.com, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Travis/Jones to include the constraints of the customer's mood and number of persons traveling. Doing so helps the consumers to live their dreams, as suggested by Lastminute.com (at least see page 4 under the heading, " *What are we trying to do ?.....wants to encourage spontaneous, romantic and sometimes adventurous behavior by offering users to live their dreams....*"). The knowledge of the number of persons traveling helps to book the desired number of seats in restaurants/airplane or accommodation in hotels.

4.3.. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Travis/Jones in view of prior admitted art by the applicant.

About claim 8, Travis/Jones teaches a method of offering items for sale in claim 1, as disclosed and analyzed above. Travis/Jones does not teach looking up a hash table of the items while comparing affinity space coordinates of the plural items with the affinity space description associated with the package template. However, the applicant teaches that the benefits and concept of using hash table is a prior art well-known to a person of an ordinary skill in the art at the time of the applicant's invention (see response, pages 015-16). In view of the admitted prior art and knowledge generally available it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Travis/Jones to use hash tables to rapidly access data about items from a database.



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4.4.. Claims 11-22, 24-37, 39-43, 44-49, 50-51, 53-54, 58-66, 70, 72-74 and 76-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travis/Jones/Lastminute.com and further in view of Carter et al. (US Patent 6,574,607), hereinafter referred to as Carter.

With regards to system claims 11-20 and 73, and method claims 21-22, 24-29, 32-45, 53-54, 58-63, 74, and 76-84, their limitations correspond to the limitations covered in method claims 1-10 and 75 and are therefore, analyzed and rejected similarly. Note: Travel arrangement and its components in claims 21-22, 24-29 relate to the items offered for sale in a group.

With regards to claims 30-31, Lastminute.com discloses components comprising last minute travel component (see at least page 2, "*.....Search.....What can I do today....Going out....Stay in hotel....Fly away*", page 6, "*.....How last minute is lastminute.com.....who sell package tours at any time of the year....*").

About claims 43, 48-49, and 72, Travis/Jones/Lastminute.com discloses that the package template includes a mandatory airline ticket and hotel and at least one optional element and returning possible combinations of components stored in the data storage arrangement for human selection (see at least Jones, page 2, paragraph 0030, 0031, 0034, page 3, and paragraph 0040. Note: "activity and restaurant information " in Jones relate to one optional element in the application). Jones also discloses that the package schema data structure comprises a list of required attributes and at least one coordinate defining matching criteria (see at least FIGS. 8B and 8C which shows the flight parameters [corresponds to attributes] and also schema representing flexibility to adjust itinerary to improve the lower fare and this corresponds to at least one coordinate defining matching criteria.

Travis/Jones/Lastminute.com does not disclose that the package schema data structure comprises at least one field stating whether an element is mandatory or optional. However, in

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the filed of same endeavor, Carter teaches that the package schema data structure comprises at least one field stating whether an element is mandatory or optional( see at least Fig.2, and col.4, lines 54-57, " *As shown in the FIG. 2, the significance levels can be broken down into two groups: a mandatory group 21 at the higher significance levels and an optional group 22 at the lower levels.* ". In view of Carter, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Travis/Jones/Lastminute.com as applied to claims 43, 48-49, and 72 to incorporate the feature of package schema data structure comprising at least one field stating whether an element is mandatory or optional because " *..This way, the agent can use these two groups to decide which requests are absolutely critical to the group and which requests are merely optional. The agent can then report the completed package to the client if all the mandatory requests have been satisfied even if any of the optional requests have not been satisfied.*", as suggested in Carter, see col.3, lines 54-62.

Note: all other limitations of claim 72 are covered in claims 1-10 as analyzed and rejected above.

About claims 46-47, and 50-51, Travis/Jones/Lastminute.com discloses that package description includes at least one of text, images and animations and at least one component schemata(see at least Lastminute.com. The web pages, which are presented to the consumers, include text and images and descriptions of packages.. Lastminute.com does not show animation but the presenting data in animation form is well known as per the information generally available at the time of the invention) and incentive packages including at least one of a default margin, a coupon and a rebate (see at least Lastminute.com, page 8, "... *What are Award Minutes* ", page 24, "*..Collect Minutes.....Whenever you buy something we'll reward you with Minutes.....*").

About claims 64-66, and 70, Travis/Jones/Lastminute.com teaches that items can comprise consumer electronic items, gifts, services and appliances (see at least

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Lastminute.com, page 2, which shows the products and services Lastminute.com website offers, and page 30, which displays, "...Shop by category.....").

About claims 85-92, their limitations are already covered and analyzed in method claims 1-10 except for the limitation that at least one of the plurality of items comprises an airline ticket and that the mandatory element schema comprises an airline ticket. Travis discloses that one of the plurality of items comprises an airline ticket (see at least page 2, paragraph 0018, *"....Development of a targeted web offering .....The most basic components of the experience may be readily identifiable [e.g. a tour package and an airline ticket for a vacation experience.....but other components... ]*). As regards the limitation that the mandatory element schema comprises an airline ticket, Carter teaches the same, see Fig.2. In view of Carter, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Travis/Jones/Lastminute.com as applied to claims 85-92 to incorporate the feature that the mandatory element schema comprises an airline ticket I because " *..This way, the agent can use these two groups to decide which requests are absolutely critical to the group and which requests are merely optional. The agent can then report the completed package to the client if all the mandatory requests have been satisfied even if any of the optional requests have not been satisfied.*" , as suggested in Carter, see col.3, lines 54-62.

4.5.. Claims 23, 52, and 55-57 are rejected under 35 U.S.C. 103(a) as being obvious over Travis/Jones/Lastminute.com and further in view of Official Notice.

With regards to claims 23, 52, 55, and 56 the concepts and benefits of screen scraping- drag and drop process- from HTML web pages, use of EDI interface, e-mail interface, and HTML supplier interface are well known in the field of Internet and e-commerce for acquiring data from html web pages, transmitting data between remote computers. In view of the Official

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Notice, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to use the concept and benefits of screen scraping from HTML web pages, use of EDI interface, e-mail interface, and HTML supplier interface in Travis/Jones/Lastminute.com. Doing so would help the consumers and service providers to acquire data from HTML web pages and transmitting data between remote computers.

4.6. Claims 67-69, and 71 are rejected under 35 U.S.C. 103(a) as being obvious over Travis/Jones/Lastminute.com in view of applicant's own disclosure.

About claims 67-69, and 71, the system and methods as analyzed for traveling packages and its components would also be applicable for other services and products including legal services, real estate brokerage services, and home renovation services as evidenced by applicant's own disclosure (see disclosure, page 6, lines 9-17). Doing so would enable Travis/Jones/Lastminute.com to view additional services as suggested by Travis/Jones/Lastminute.com (at least see Travis, page 1, paragraph 0011).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG  
July 12, 2005